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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,556	03/29/2000	Eileen C. Shapiro	1525C/107	6059

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BROMBERG & SUNSTEIN LLP  
125 SUMMER STREET  
BOSTON, MA 02110-1618

EXAMINER
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STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/538,556

Applicant(s)

SHAPIRO ET AL.

Examiner

Johnna R Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19, 20, 22, 23 and 25-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-17, 19, 20, 22, 23 and 25-29 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 8/23/04  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/538,556. Claims 1-17, 19, 20, 22, 23, and 25-29 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments filed August 23, 2004, have been fully considered but they are not persuasive. Applicant argues the present invention is not obvious in view of Puram and Singh. Examiner respectfully disagrees and upholds prior rejections to the claims. Puram teaches a bilateral employer/candidate matching system wherein a profile is stored with requirements from both parties for use in matching. Although Puram does not explicitly teach the use of conjoint analysis for both parties to gain insight into preferences for the employer/candidate matching, Singh teaches the well-known benefits of using conjoint analysis for employer/candidate matching. Knowing of the well-known benefits of conjoint analysis, it would have been obvious to one of ordinary skill in the art to use concepts of conjoint analysis for both parties involved in the matching of Puram.

On a side note, Applicant refers to an interview wherein the same matter was discussed. Examiner disagrees with Applicant's statement that "...agreement appeared to be reached that neither Puram nor Singh alone or in combination, teach or otherwise suggest applying conjoint analysis to both parties and counterparties in transaction". Examiner does not recall an agreement that either reference, alone or in combination, teaches applying conjoint analysis to both parties. The contents of the interview are noted in the interview summary dated August 18,

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2004, wherein the Examiner determined that the concept of using conjoint analysis in a bilateral manner was rendered obvious given the well-known advantages of conjoint analysis in a one-sided evaluation. Further consideration to the topic has been given, but previous rejections are being upheld.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 3, 5-13, 16, 17, 19, 22, 23, and 25-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Puram et al, US 6,289,340 in view of the Singh article entitled, "Matching Candidates with Job Openings Using Web-based Adaptive Conjoint Analysis".

As per **claim 1** (amended), Puram et al teaches a method for facilitating evaluation comprising:

obtaining for each of the parties (employers) in the first class and storing in a first digital storage medium responses from at least one of the party and a party co-evaluator to a first set of questions designed to permit analysis of the responses in terms of a first plurality of attributes that can be used to estimate the closeness of such party's fit with a counterparty (candidates) in such context and obtaining for each of the counterparties in the second class and storing in a second digital storage medium responses from at least one of the counterparty and a counterparty co-evaluator to a second set of questions designed to permit analysis of the responses to estimate

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the closeness of such counterparty's fit with a party in such context (column 2, lines 44-55, column 3, lines 53-56 - in this reference the "employers" and "candidates" provide data regarding the skills desired or possessed and that information is stored within a storage medium; figures 5-9, the questions to reveal preferences are presented in a way to "force" the respondent to answer, as opposed to an open ended format. The questions are formed so that the respondent is lead to give specific information. In figure 5, the respondent answers specific questions about technical skills. The respondent is "forced" to enter information such as specific hardware he or she has worked with and the number of years working in that area, as opposed to a format wherein the respondent is asked an open ended question such as "tell us everything about your technical skills");

deriving from the responses to the first set of questions for each such party a first preference profile for each such party and deriving from the responses to the second set of questions for each such counterparty a second preference profile for each such counterparty (column 1, lines 10-13; profiles are generated and stored for candidates and positions to be filled (employer profile));

and in a separate computer process, analyzing the preference profiles of the party and counterparty to generate a list of counterparties for which the preferences of the party closely match the preferences of the counterparty and the preferences of the counterparty closely match the preferences of the party and communicating the first list to such party (column 7, lines 6-22, 65-67).

Puram teaches a matching process wherein preference profiles are generated for job candidates and for positions to be filled by having the employers answer questions regarding

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skills needed and candidates answer questions regarding the skills they possess and the level of those skills, but Puram does not explicitly teach the use of conjoint analysis, including forced choice questions that are essentially orthogonal to one another and are used to reveal underlying party preferences. However, conjoint analysis is an old and well-known method used to reveal preferences. As taught in the Singh article, conjoint analysis is an effective tool in choosing candidates for job openings therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use conjoint analysis to analyze the candidates as taught in Singh and to also use the same conjoint analysis along with the Puram method of analyzing both employer preferences and candidate preferences to find the best fit, making sure to satisfy preferences of both the employer and candidate. A method using conjoint analysis for both the party and counterparty would ensure the most effective matching.

As per **claim 3**, Puram et al teaches the first list ranked according to the closeness of fit (abstract; the candidates are ranked according to adjusted skills scores to yield best-fit matches).

As per **claims 5 and 6**, Puram et al teaches obtaining responses from each of the parties and counterparties is accomplished using communication over a communication network (column 3, lines 7-8).

As per **claims 7 and 8**, Puram et al teaches obtaining responses from each of the parties and counterparties includes making web pages available providing the questions and permitting entry by such party or counterparty of responses thereto (column 3, lines 50-58, column 5, lines 60-67).

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As per **claim 9**, Puram et al teaches questions eliciting revelation of a utility value which indicates the value that the party places on the level of the attribute (column 5, lines 60-65; the party (employer) identifies the skills desired and indicates the priority of that skill).

As per **claim 10**, Puram et al teaches questions eliciting revelation of a utility value which indicates the value that the counterparty places on the level of the attribute (column 5, lines 36-42; the counterparty (candidate) indicates priority of preferred geographic region of employment or willingness to travel).

As per **claim 11**, Puram et al teaches analyzing the preference profile of the party in relation to the preference profiles of the counterparties using a measure of distance between a set of utility values created with respect to the first series of attributes and a set of utility values created for the second series of attributes (column 7, lines 6-13, 21-25, 51-69; the search only returns those candidates whose skills profiles matches or exceeds the specified criteria).

As per **claim 12**, Puram et al teaches a set of questions requiring the party to rank each of a non-null set of items from among a plurality of possible ranks (column 2, lines 44-49; the employer provides data regarding the skills desired and the priority of that skill for the position).

As per **claim 13**, Puram et al teaches a set of questions requiring the counterparty to rank each of a non-null set of items from among a plurality of possible ranks (column 5, lines 36-42; the counterparty (candidate) inputs preference data, for example, the candidate inputs his or her preferred geographic location).

As per **claim 16**, Puram et al teaches the preference profile of each party associates a utility value to indicate the value which the party places on the level of the attribute (column 5,

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lines 60-67, column 2, lines 44-50; the party (employer) identifies the importance or priority of the skills desired as part of the preference data that is gathered and stored in the profile).

As per **claim 17**, Puram et al teaches the preference profile of each counterparty associates a utility value to indicate the value which the counterparty places on each level of the attribute (column 5, lines 35-42, column 2, lines 50-55; the counterparty (candidate) indicates preference values for each attribute which are stored in the profile).

As per **claim 19**, Puram et al teaches a party co-evaluator is an associate of the party (Puram teaches a third party evaluation of the candidate (column 3, lines 20-25), inherently this evaluation would come from an associate or someone who knows the candidate, otherwise, the third party evaluation would not be accurate)

As per **claim 22**, the same rejection as applied to claim 1 above is applied to claim 22. Claim 22 is the computer process for implementing the steps of claim 1.

As per **claim 23**, the same rejection as applied to claim 1 above is applied to claim 23. Claim 23 is a question and response module for obtaining the information claimed in claim 1. Puram et al teaches separate interfaces for collecting the profile information (column 3, lines 20-25), and also teaches storing the information in separate storage media (column 2, lines 44-55).

As per **claim 25**, the same rejection as applied to claim 1 above is applied to claim 25. In claim 25, the database is structured for storing the information obtained in claim 1. Puram et al teaches separate databases for the profile information gathered from the party (employer) and the counterparty (candidate).

As per **claim 26**, the same rejection as applied to claim 16 above is applied to claim 26. In claim 26, the information obtained in claim 16 is stored in the database of claim 25.



As per **claim 27**, the same rejection as applied to claim 17 above is applied to claim 27.

In claim 27, the information obtained in claim 17 is stored in the database of claim 25.

As per **claim 28**, the same rejection as applied to claim 11 above is applied to claim 28.

As per **claim 29**, the same rejection is applied to claims 1 and 23 above as applied to claim 29. In claim 29, the database is structured for storing the information obtained in claim 1 by the question and response module in claim 23.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2, 4, 14, 15 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Puram et al, U.S. Patent No. 6,289,340 B1 and Singh, in further view of CareerMosaic. The following rejections are based on CareerMosaic.com. Applicant is reminded that the following rejections are based on the product of CareerMosaic.com

CareerMosaic.com web pages 1-16 were retrieved from the "Wayback Machine" (web.archive.org). The CareerMosaic.com web pages referenced were archived on April 12, 1997.

As per **claim 2**, the combination of Puram et al and Singh teaches communicating, to a party (employer), a list of counterparties (candidates) whose preference profiles closely fit with those of the parties but does not teach communicating, to a counterparty, a list of parties for

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which the preferences of the party closely match the preferences of the counterparty and the preferences of the counterparty closely match the preferences of the party. CareerMosaic.com offers a way for counterparties to receive a list of parties with whom their preferences match (pg 5 – a description of the CareerMosaic J.O.B.S. database, where the counterparty enters criteria important to the job search and the second list of companies (parties) that match are returned). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Puram et al and Singh to include the list presented to the counterparty as well. The motivation for doing so would be so that both the employer and candidate could make a more informed decision. For example if the counterparty was not presented with a list of matching parties, he or she may be inclined to take the first offer for a job. Whereas, if the counterparty knew of the parties who might be contacting them, they could make a better decision on whether to take their first offer.

As per **claim 4**, the combination of Puram et al and Singh teaches the second list ranked according to the closeness of fit (abstract; the candidates are ranked according to adjusted skills scores to yield best-fit matches). Puram et al does not teach a ranked list of parties. It is old and well known in the art to rank lists to group more relevant results together. It would have been obvious to one of ordinary skill in the art at the time of the invention to generate a ranked list of matching parties as well, so both the employers and candidates could make a well-informed decision on filling and selecting a position. A real world example would be that a candidate who receives more than one offer for employment and/or interview would choose the potential employer that best appeals to the candidate. It is for this reason one would be motivated to generate a ranked list of matching parties.

As per **claim 14**, the combination of Puram et al and Singh teaches all the limitations of claim 14, as applied to claim 9 above, but does not teach the questions revealing values without explicitly asking for the values. The combination of Puram et al and Singh teaches the party assigning a desired skill level for skills such as operating systems, languages, project experience, etc. (column 6, lines 11-14). By assigning a desired skill level to those skills, it would be obvious to one of ordinary skill in the art at the time of the invention to imply that one without those skills (or one with other skills) are not needed for the position. The motivation of using this type of question is to help the counterparty to realize what type of person is being sought after for the job. If the counterparty does not have the skills given the most priority, they would know they are not qualified.

As per **claim 15**, the combination of Puram et al and Singh teaches all the limitations of claim 15, as applied to claim 10 above, but does not teach the questions revealing values without explicitly asking for the values. The combination of Puram et al and Singh teaches the counterparty identifying their geographic location preference (column 5, lines 35-42). It would be obvious to one of ordinary skill in the art at the time of the invention to imply from that question whether or not the counterparty is willing to relocate. For example, if the candidate was living in one state and their geographic preference was in another state, the party could imply that the counterparty is willing to relocate. The motivation of using this type of question is to help the party to find a counterparty to is available for a position in a certain geographic region and if that counterparty is willing to relocate from their current location. If the position is in a state that the counterparty is not willing to relocate to, the party would not contact that counterparty.

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As per **claim 20**, the combination of Puram et al and Singh does not explicitly teach the counterparty co-evaluator is one of an associate, a member of a group to which the counterparty belongs, a parent or guardian of the counterparty, an advisor to the counterparty, a relative of the counterparty, and a friend of the counterparty. It would be inherent that there would be a counterparty co-evaluator involved in any business transaction such as hiring a candidate (as in the Puram reference). It is well known in general hiring practices to involve more than one person in the hiring process. A hiring manager may set forth skills needed for the job and have them reviewed by another person in the group such as his or her manager or the person for which the candidate will be working. This type of practice ensures that the list of skills needed includes everything relevant to the job opening.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566.

The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS  
10/22/04

  
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